



The East Punjab Children Act, 1949

Act 39 of 1949

Keyword(s):

Brothel, Certified School, Child, Fit Person, Guardian, Juvenile Court, Place of Safety, Probation Officer, Youthful Offender

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THE EAST PUNJAB CHILDREN ACT, 1949.

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THE EAST PUNJAB CHILDREN ACT, 1949.

EAST PUNJAB ACT NO. 39 OF 1949

[Received the assent of his Excellency the Governor-General on 8th December, 1949, and was first published in the East Punjab Government Gazette (Extraordinary) of December 12, 1949.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1949	39	East Punjab Children Act, 1949	Amended in part by the Adaptation of Laws Order, 1950 Amended in part by the Adaptation of Laws (Third Amendment) Order, 1951 ² Extended to the territories which immediately before the 1st November, 1956 were comprised in the State of Patiala and East Punjab States Union by Punjab Act No. 43 of 1960 ³ Amended by Punjab Act No. 25 of 1964

An act to make provisions for the custody and protection of children and for the custody, trial and punishment of youthful offenders and for the amendment of the Reformatory Schools Act, 1897, in its application to ⁴[the State of Punjab].

PART I.

PRELIMINARY

1. (1) This Act may be called the East Punjab Children Act, 1949. ^{Short title and extent.}

(2) It extends to the whole of the ⁵(State) of ⁶[Punjab].

¹For Statement of Objects and Reasons, see East Punjab Government Gazette (Extraordinary), 1948 page 489-P; for the Select Committee Report, see East Punjab Government Gazette (Extraordinary), 1949, Part V, pages 55—106; for proceedings in the Assembly, see East Punjab Legislative Assembly Debates, Volume IV, 1948, pages (6) 26—(6) 27.

²For Statement Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1960, page 2010.

³For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1964, pages 935—37.

⁴Substituted for the words "the Province of East Punjab" by the Adaptation of Laws (Third Amendment) Order 1951.

⁵Substituted for the word "Province" by the Adaptation of Laws Order, 1950.

⁶Substituted for the words "East Punjab" by the Adaptation of Laws Order, 1950.

(3) Notwithstanding the introduction of this Act in any local area the ¹[State] Government may by notification exclude any class of children or youthful offenders from the operation of all or any of the provisions of this Act.

Commencement.

2. Section 1 shall come into operation at once. The rest of the Act shall come into operation in any area on such date as the ¹[State] Government may by ²notification appoint in this behalf.

Interpretation.

3. In this Act unless there is anything repugnant in the subject or context,—

(a) “brothel” means any house, room or place or any part thereof, which is habitually used by more than one person for the purposes of prostitution;

(b) “certified school” means an industrial school established under sub-section (1) or any industrial school or any other educational institution certified under sub-section (2) of section 46 of this Act;

(c) “Child” means a person under the age of 16 years, and when used with reference to a child sent to a certified school applies to that child during the whole period of his detention, notwithstanding that the child may have attained the age of 16 years;

(d) “a child in need of care or protection” means a child to whom any of the clauses (a), (b), (c), (d), (e), (f) and (g) of sub-section (1) of section 8 of this Act, applies;

(e) “Chief Inspector” means the person appointed as such under section 48 of this Act;

(f) “Code” means the code of Criminal Procedure 1898;

¹Substituted for the word “Provincial” by the Adaptation of Laws Order, 1950.

²The Act came into force on the 27th September, 1967, *vide* Punjab Government, Notification No. 5706-3SW-67/2575, dated the 18th August, 1967.

- (g) "fit person" in relation to the care of any child includes any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth;
- (h) "guardian" in relation to a youthful offender or child includes any person who in the opinion of the court having cognizance of any proceeding in relation to the youthful offender or child or in which the youthful offender or child is concerned, has for the time being the actual charge of or control over the youthful offender, or child ;
- (i) "Juvenile court" means a separate court established under sub-section (1) of section 60 of this Act and includes a court before which a child is brought under sub-section (2) of that section;
- (j) "place of safety" includes any orphanage, hospital, surgery or any other suitable place or institution the occupier or manager of which is willing temporarily to receive a child, or where such orphanage, hospital, surgery, or other suitable place or institution is not available, in case of a male child only, a police station;
- (k) "prescribed" means prescribed by rules under this Act;
- (l) "Probation Officer" means an officer appointed under section 31; and
- (m) "youthful offender" means any child who has been found to have committed an offence punishable with transportation or imprisonment.

The Reformatory Schools Act, 1897, to cease to extend to the area to which certain provisions of this Act apply.

4. (1) The provisions of the Reformatory Schools Act, 1897, shall cease to apply to any area in which this Act shall be, or has been, brought in to operation.

(2) Any youthful offender detained in a Reformatory School in any area in pursuance of an order passed by a court under the Reformatory School Act, 1897, immediately preceding the date on which the said Act ceases to apply to the said area under sub-section (1) shall, from such date, be deemed to have been ordered to be detained, as if such youthful offender was originally dealt with under this Act and Reformatory School in which he was detained shall be deemed to be a certified school established under this Act and any order of detention or placing out on licence of such youthful offender under the Reformatory Schools Act, 1897, shall, from such date, be deemed to be an order passed under the corresponding provisions of this Act and the provisions of this Act shall, so far as may be, apply to such youthful offender accordingly.

Children under eight years.

5. The court shall not order a child under the age of eight years to be sent to a certified school unless for any reason, including the want of a fit person of his own religious persuasion who is willing to undertake his care, the court is satisfied that he cannot suitably be dealt with otherwise.

Powers of Courts

6. The powers conferred on courts by this Act shall be exercised only by ;--

- (a) the High Court;
- (b) a Court of Sessions;
- (c) ¹[a Chief Judicial Magistrate];
- (d) ²[* * *];
- (e) any Juvenile Court constituted under section 60;
- (f) any ³[Judicial Magistrate] of the 1st class;

¹Substituted for the word "a District Magistrate" by Punjab Act No. 25 of 1964.

²Clause (d) omitted by p. *ibid*.

³Substituted for the word "Magistrate" by Punjab Act No. 25 of 1964.

(g) any court notified in this behalf by the ¹[State] Government ²[in consultation with the High Court];

and may be exercised by such courts whether the case comes before them in the exercise of original jurisdiction or on appeal or revision.

7. (1) When any ³[Judical Magistrate] not empowered to pass an order under this Act is of opinion that a child brought before him should be sent to a certified school or dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion and submit his proceedings and forward the child to the ⁴[Chief Judicial Magistrate] to whom he is subordinate or to the ³[Judical Magistrate] presiding over the nearest Juvenile Court having jurisdiction in the case;

Procedure when
³[Judical Magis-
trate] is not em-
powered to pass
an order under
this Act.

Provided that where a child brought before a ³[Judical Magistrate] not empowered to pass an order under this Act is accused of an offence triable jointly with any other person not being a child, nothing in this sub-section shall affect to be deemed to affect the powers of the ³[Judical Magistrate] to try such other person.

(2) The ³[Judical Magistrate] to whom the proceedings are so submitted may make such further inquiry, if any, as he may think fit and may pass such order dealing with the case as he might have passed if the child had originally been brought before or tried by him.

PART II

MEASURES FOR THE CUSTODY AND PROTECTION OF CHILDREN WHO ARE DESTITUTE, ETC.

8. (1) Any police officer or such other person authorised in this behalf in accordance with rules made by the ¹[State] Government may bring before a court any person who in his opinion is a child and who—

Children
homeless,
found
desti-
tute, etc.

(a) has no home, place of abode or visible means of subsistence, or is being wilfully neglected by his parent or guardian : or

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

²Added by Punjab Act No. 25 of 1964.

³Substituted for the word "Magistrate" by Punjab Act No. 25 of 1964.

⁴Substituted for the words "District Magistrate or Sub-Divisional Magistrate" by Punjab Act, 25 of 1964.

- (b) is found destitute and his parents or surviving parent or other guardian or in the case of an illegitimate child his mother or other guardian, are or is as the case may be, undergoing transportation or imprisonment ; or
- (c) is under the care of a parent or guardian who by reason of criminal or drunken habits is unfit to have the care of such person ; or
- (d) frequents the company of any reputed thief or prostitute ; or
- (e) is lodging or residing in or frequenting a house used by a prostitute for the purposes of prostitution ; or
- (f) is made or allowed to beg or receive alms ; or
- (g) is being grossly overworked or ill-treated by his employer:

Provided that when any such child has a parent or guardian who has the actual charge or control over the child the police officer or other person, as aforesaid, shall, in the first instance make a report to the nearest court or ¹[Judicial Magistrate] having jurisdiction under this Act. Such court or ¹[Judicial Magistrate] may call upon such parent or guardian to show cause why the child should not during the pendency of the proceedings be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before the court, permit the child to remain in the actual charge or control of his parent or guardian or may order his removal till the court passes orders under this Act.

(2) The court before which a child is brought under subsection (1) shall examine the informant and record the substance of such examination and shall, if there are sufficient grounds for further enquiry, fix a date for such enquiry.

(3) On the date fixed for the production of the child or for the enquiry or on any subsequent date to which

¹Substituted for the word "Magistrate" by Punjab Act No. 25 of 1964.

the proceedings may be adjourned the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to a certified school should not be passed and make any further inquiry it thinks fit.

(4) If the court is satisfied on the inquiry that such person is a child to whom any of the clauses of sub-section (1) applies and that it is expedient so to deal with him, the court may order him to be sent to a certified school until such child attains the age of 18 years or for any shorter period.

PART III

OFFENCES AGAINST CHILDREN AND THEIR PREVENTION.

9. (1) Whoever having attained the age of 16 years and having the actual charge of or control over a child abandons, exposes or wilfully neglects or causes or procures him to be abandoned, neglected or exposed, in a manner likely to cause such child unnecessary suffering or injury to his health shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

Punishment for
cruelty to children.

(2) Whoever, being an employer of a child, over-works him to an extent or ill-treats him in a manner, so as to amount to gross cruelty, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(3) For the purposes of this section injury to health includes injury to, or loss of, sight or hearing and injury to limb or organ of the body and any mental derangement, and a parent or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause injury to his health if he, having means to provide adequate food, clothing, medical aid or lodging for the child, fails to make such provision.

(4) A person may be convicted of an offence under this section notwithstanding that the actual suffering or injury to health was obviated by the action of another person.

(5) Nothing in this section shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.

Causing or allowing child to beg.

10. (1) Whoever causes any child or having the actual charge of or control over a child, allows that child to be in any street, premises or place for the purposes of begging or receiving alms, or of inducing the giving of alms, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

(2) If a person having the custody, charge or care of a child is charged with an offence under this section, and it is proved that the child was in any street, premises or place for any such purpose as aforesaid, and that the person charged allowed the child to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises or place for that purpose unless the contrary is proved.

Penalty for being drunk while in charge of a child.

11. If any person is found drunk in any highway or other public place whether a building or not or on any premises licensed for the sale of liquor, while having the charge of a child apparently under the age of seven years and if such person is incapable by reasons of his drunkenness of taking due care of the child, he may be arrested and shall, if the child is under that age, be punishable with fine which may extend to fifty rupees.

Explanation.—For the purposes of this section a child shall be deemed to be under the age of seven if it appears to the court to be under that age unless the contrary is proved.

Penalty for giving intoxicating liquor to a child.

12. Whoever in any highway or other public place whether a building or not or on any premises licensed for the sale of liquor gives, or causes to be

given to any child any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness or other urgent cause, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

13. It shall be the duty of a police officer to seize any intoxicating drug or liquor, bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place and any bidis, cigarettes, tobacco, or smoking mixture so seized shall be forfeited to the ¹[State] Government and every such police officer shall be authorised to search any boy so found but not a girl.

Seizure by police officer of any bidis, cigarettes, tobacco or smoking mixture in possession of a child.

14. Whoever, having the actual charge of or control over a child, allows or encourages that child to smoke or drink any intoxicating drug or liquor shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Penalty for allowing a child to smoke or drink intoxicating liquor.

15. Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for inciting a child to bet.

16. Whoever takes an article in pawn from a child whether offered by that child on his own behalf or on behalf of any other person shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for taking pawn from a child.

17. Whoever, having the actual charge of, or control over, a child between the ages of four and sixteen

Allowing child to be in brothel.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

allows that child to reside in or frequent a brothel shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc., of a young girl.

18. (1) Whoever having the actual charge of, or control over, a girl under the age of sixteen years causes or encourages the seduction or prostitution of that girl or causes or encourages, any one other than her husband to have sexual intercourse with her shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction or prostitution of, or the unlawful sexual intercourse with a girl who has been seduced or become a prostitute or with whom such sexual intercourse has been had if he has knowingly allowed the girl to consort with, or to enter and continue in the employment of any prostitute or person of known immoral character.

Young girls exposed to risk of seduction, etc., or cruelly treated.

19. If it appears to a court on the complaint of any person that a girl under the age of sixteen or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution or leading a life of prostitution, the court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Detention of child in place of safety.

20. (1) Any police officer, not below the rank of Sub-Inspector or a police officer or a person authorised in this behalf in accordance with rules made by the [State] Government may take to a place of safety any child in respect of whom an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860, has been or there is reason to believe it has been committed:

Provided that no such child shall be taken from the custody of its parent or guardian if such parent

XLV of
1860.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

or guardian furnishes a bond in a sum not exceeding five hundred rupees to the satisfaction of the police officer or other person authorised for producing the child in court within the time specified in the bond.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may there be detained until he can be brought before the court, but such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court.

(3) Where it appears to the court that an offence as aforesaid has been committed in respect of any child who is brought before the court and that it is expedient in the interests of the child that an order should be made under this sub-section, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the conviction, discharge or acquittal of that person and, in case of conviction for such further time not exceeding one month as the court which convicted may direct and any such order may be carried out notwithstanding that any person claims the custody of the child.

21. (1) Where any person having the actual charge of or control over a child has been—

Disposal of child
by order of court.

XLV of
1860.

- (a) convicted of committing in respect of such child an offence punishable under this Act or under Chapter XVI of the Indian Penal Code; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards such child by any court;

that court may either at the time when the person is so convicted, committed for trial or bound over or at

any other time, order that the child be taken out of the charge and control of the person so convicted, committed for trial or bound over and be committed to the care of a relative of the child or other fit person named by the court (such relative or other person being willing to undertake such care) until he attains the age of sixteen years or for any shorter period and that court or any court of like jurisdiction may, of its own motion or on the application of any person, from time to time by order renew, vary, and revoke any such order.

(2) The court which makes an order committing a child to the care of a relative or other fit person under this section may require such relative or other person to execute a bond with or without sureties, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life and may further order that the child be placed under the supervision of a probation officer or other person named by the court.

(3) If the child has a parent or legal guardian, no order shall be made under this section unless—

(i) the parent or legal guardian has been convicted of, or committed for trial for, the offence or has been bound over to keep the peace towards the child or cannot be found; or

(ii) the court has reason to believe that the parent or legal guardian has either been party or privy to the offence or has by any act or omission facilitated the offence, or is otherwise unfit to have the care of the child:

Provided that if the court thinks fit, it may on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court allow such child to remain in the custody of such parent or legal guardian subject to the supervision of a probation officer or other person named by the court.

given to any child any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness or other urgent cause, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

13. It shall be the duty of a police officer to seize any intoxicating drug or liquor, bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place and any bidis, cigarettes, tobacco, or smoking mixture so seized shall be forfeited to the ¹[State] Government and every such police officer shall be authorised to search any boy so found but not a girl.

Seizure by police officer of any bidis, cigarettes, tobacco or smoking mixture in possession of a child.

14. Whoever, having the actual charge of or control over a child, allows or encourages that child to smoke or drink any intoxicating drug or liquor shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Penalty for allowing a child to smoke or drink intoxicating liquor.

15. Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for inciting a child to bet.

16. Whoever takes an article in pawn from a child whether offered by that child on his own behalf or on behalf of any other person shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for taking pawn from a child.

17. Whoever, having the actual charge of, or control over, a child between the ages of four and sixteen

Allowing child to be in brothel.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

court, but such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court.

(3) Where it appears to the court that an offence as aforesaid has been committed in respect of any child who is brought before the court and that it is expedient in the interests of the child that an order should be made under this sub-section, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the conviction, discharge or acquittal of that person and, in case of conviction for such further time not exceeding one month as the court which convicted may direct and any such order may be carried out notwithstanding that any person claims the custody of the child.

21. (1) Where any person having the actual charge of or control over a child has been—

Disposal of child by order of court.

- (a) convicted of committing in respect of such child an offence punishable under this Act or under Chapter XVI of the Indian Penal Code; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards such child by any court;

that court may either at the time when the person is so convicted, committed for trial or bound over or at

allows that child to reside in or frequent a brothel shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc., of a young girl.

18. (1) Whoever having the actual charge of, or control over, a girl under the age of sixteen years causes or encourages the seduction or prostitution of that girl or causes or encourages, any one other than her husband to have sexual intercourse with her shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction or prostitution of, or the unlawful sexual intercourse with a girl who has been seduced or become a prostitute or with whom such sexual intercourse has been had if he has knowingly allowed the girl to consort with, or to enter and continue in the employment of any prostitute or person of known immoral character.

Young girls exposed to risk of seduction, etc. or cruelly treated.

19. If it appears to a court on the complaint of any person that a girl under the age of sixteen or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution or leading a life of prostitution, the court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Detention of child in place of safety.

20. (1) Any police officer, not below the rank of Sub-Inspector or a police officer or a person authorised in this behalf in accordance with rules made by the [State] Government may take to a place of safety any child in respect of whom an offence punishable under this Act or under Chapter XVI of the Indian Penal

any other time, order that the child be taken out of the charge and control of the person so convicted, committed for trial or bound over and be committed to the care of a relative of the child or other fit person named by the court (such relative or other person being willing to undertake such care) until he attains the age of sixteen years or for any shorter period and that court or any court of like jurisdiction may, of its own motion or on the application of any person, from time to time by order renew, vary, and revoke any such order.

(2) The court which makes an order committing a child to the care of a relative or other fit person under this section may require such relative or other person to execute a bond with or without sureties, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life and may further order that the child be placed under the supervision of a probation officer or other person named by the court.

(3) If the child has a parent or legal guardian, no order shall be made under this section unless—

(i) the parent or legal guardian has been convicted of, or committed for trial for, the offence or has been bound over to keep the peace towards the child or cannot be found; or

(ii) the court has reason to believe that the parent or legal guardian has either been party or privy to the offence or has by any act or omission facilitated the offence, or is otherwise unfit to have the care of the child:

Provided that if the court thinks fit, it may on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court allow such child to remain in the custody of such parent or legal guardian subject to the supervision of a probation officer or other person named by the court.

(4) Every order under this section shall be in writing and any such order may be made by the court in the absence of the child; and the consent of any person to undertake the care of the child in pursuance of any such order shall be taken in such manner as the court may think sufficient to bind him.

(5) Where an order is made under this section and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(6) The court may instead of ordering the child to be committed to the care of a relative or other fit person order that the child shall be sent to a certified school.

22. (1) If it appears to a ¹[Judicial Magistrate] duly empowered under this Act from information on oath or solemn affirmation laid by any person who in the opinion of the ¹[Judicial Magistrate] is acting in the interests of a child, that there is reasonable cause to suspect that—

Warrant to search
for child ill
treated.

(a) a child has been or is being wilfully ill-treated or wilfully neglected in any place within its jurisdiction in a manner likely to cause the child unnecessary suffering or to be injurious to his health; or

(b) that an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, has been or is being committed in respect of the child, the ¹[Judicial Magistrate] may issue a summon in the first instance against the person or persons in whose care, custody or control such child is, to produce forthwith the said child in court, or may issue a warrant authorising any police officer named therein to search for such child and if it is found that he

has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence as aforesaid has been or is being committed in respect of the child, to take him to, and detain him in, a place of safety until he can be brought before the ¹[judicial Magistrate], or authorising any police officer to remove the child with or without search, to a place of safety and detain him there until he can be brought before the ¹[Judicial Magistrate], and the ¹[judicial Magistrate] before whom the child is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose charge or control he was, had been committed for trial for an offence punishable under this Act:

Provided that if the said child is in the custody or control of a parent or guardian who, being a female does not according to the customs and manners of the country appear in public, the ¹[Judicial Magistrate] shall ordinarily issue a summons and the person to whom such summons is issued shall be deemed to have complied with the summons if instead of personally attending in court she causes the said child to be produced in court.

(2) A ¹[Judicial Magistrate] issuing a warrant under this section may in his discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before him, or direct that if such person executes a bond with sufficient sureties for his attendance before the ¹[Judicial Magistrate] at a specified time and thereafter until otherwise directed by the ¹[Judicial Magistrate], the officer to whom the warrant is directed shall take such security and shall release such person from custody.

¹Substituted for the word "Magistrate" by Punjab Act No. 25 of 1964.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires, and may also, if the [Judicial Magistrate] by whom the warrant is issued, so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section the name of the child shall be given if known.

23. (1) If in any case in which an information has been laid by any person under the last preceding section the magistrate, after such enquiry as he may deem necessary, is of opinion that such information was false and either frivolous or vexatious the magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

Compensation for
false and frivo-
lous or vexatious
information.

(2) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The magistrate shall by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a period of thirty days.

(4) When any person is imprisoned under sub-section (3) the provisions of sections 68 and 69 of the Indian Penal Code, 1860, shall, so far as may be, apply.

XLV of
1860.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him, but any amount paid as compensation shall be taken into account in any subsequent civil suits relating to such matter.

(6) An informer who has been ordered to pay compensation exceeding fifty rupees may appeal from the order as if such informer had been convicted on a trial held by the magistrate directing the payment of compensation.

(7) When an order for the payment of compensation is made in a case which is subject to appeal under sub-section (6) the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided, and where such order is made in a case which is not subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

PART IV.

YOUTHFUL OFFENDERS

Bail of children arrested.

24. Where a person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer-in-charge of the police station to which such person is brought may in any case and shall, unless the charge is one of culpable *homicide* or any other offence punishable with death or transportation, release him on bail if sufficient security is forthcoming unless for reasons to be recorded in writing the officer believes that such release would bring him into association with any reputed criminal:

Provided that when any girl apparently under the age of sixteen years is arrested the officer-in-charge of a police station who has made the arrest or before whom the girl is produced shall release her at once if any person who in his opinion is a sufficient surety enters into bond for such sum of money as the officer considers sufficient to produce her before the court and to appear in her stead if required at the police station.

Custody of children not discharged on bail after arrest.

25. Where a person apparently under the age of sixteen years having been arrested is not released under the preceding section or otherwise, the officer-in-charge of the police station shall cause him to be detained in the

prescribed manner until he can be brought before a court.

26. (1) Where a child is charged with any offence or is brought before a court on an application for an order to send him to a certified school, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

Attendance at court
of parent of child
charged with an
offence etc.

(2) Where the child is arrested, the officer-in-charge of the police station to which he is brought shall cause the parent or guardian of the child, if he can be found, to be warned to attend at the court before which the child will appear.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child:

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(4) The attendance of the parent of a child shall not be required under this section in any case where the child was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

(5) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child if such mother or female guardian does not according to the customs and manners of the country appear in public, but any such mother or female guardian may appear before the court by a pleader or agent.

27. Notwithstanding anything to the contrary contained in any law, no person who was a child at the date of the commission of the offence shall be sentenced to

Sentences that may
be not passed on
child.

death or transported or committed to prison for any offence or in default of payment of fine, damages or costs:

Provided that a child who is fourteen years of age or upwards may be committed to prison where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent to a certified school and that none of the other methods in which the case may legally be dealt with is suitable.

No proceedings under Chapter VIII of the Code against a child.

28. Notwithstanding anything to the contrary contained in the Code, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the Code.

Commitment of child to a certified school.

29 (1) Where a child is found to have committed an offence punishable with transportation or imprisonment the court if satisfied on enquiry that it is expedient so to deal with the child may order him to be sent to a certified school.

(2) Where prior to the coming into force of this Act, a youthful offender has been sentenced to transportation or imprisonment, the ¹[State] Government may direct that in lieu of undergoing or completing such sentence he shall, if under the age of fourteen years, be sent to a certified school; and there upon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in such school.

Power to order charge youthful offender or to commit him to fied school, order him to be—

30 (1) A court may, if it shall think fit instead of directing any youthful offender to be detained in a certified school, order him to be—

(a) discharged after due admonition, or

(b) released on probation of good conduct and committed to the care of his parent or guardian or other adult, relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the court may require to be responsible

¹ Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

for the good behaviour of the youthful offender for any period not exceeding 3 years and for the observance of such other conditions as the court may impose for securing that the youthful offender may lead an honest and industrious life and may further order that the youthful offender released under this clause be placed under the supervision of a probation officer

(2) If it appears to the court on receiving a report from the probation officer or otherwise, that the offender has not been of good behaviour during the period of his probation, it may, after making such enquiry as it deems fit, order the offender to be detained in a certified school.

31 (1) A probation officer shall be—

Appointment of probation officers.

- (a) any person appointed to be a probation officer by the ¹[State] Government, or
- (b) any person appointed for this purpose by a society recognised in this behalf by the ¹[State] Government, or
- (c) when there is no person appointed under clause (a) or (b) any other person appointed from time to time by the court for any particular case subject to the general or special orders of the ¹[State] Government.

(2) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the court which passes any order under this Act in respect of the child, is situate.

32. A probation officer shall, subject to the rules made under this Act and to the direction of the court—

Duties of probation officers.

- (a) visit or receive visits from the child or the youthful offender at such reasonable intervals as may be specified in the order passed

¹ Substituted for the "Provincial" by the Adaptation of Laws Order, 1950.

by the court or, subject thereto, as the probation officer may think fit;

- (b) see that the relative of the child or the youthful offender, as the case may be, or other person to whose care such child or youthful offender is committed, observes the conditions of the bond;
- (c) report to the court as to the behaviour of the child or the youthful offender, as the case may be;
- (d) advise, assist and befriend the child or the youthful offender, and when necessary, endeavour to find him suitable employment; and
- (e) perform any other duty which may be prescribed

Power to order parent to pay fine, etc., instead of child.

33 (1) Where a child is found to have committed an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without, any other punishment, the court may in any case, and shall if the child is under fourteen years of age, order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not concurred to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian, who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Where a parent or guardian is directed to pay fine under this section, the amount may be recovered in accordance with the provisions of the Code.

(4) A parent or guardian may appeal against any such order as if the order were a sentence passed in proceedings against himself.

34. (1) When a child is found to have committed an offence of so serious a nature that the court is of opinion that no punishment which, under the provisions of this Act, it is authorised to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or a manner as it thinks fit and report the case for the orders of the [State] Government.

Detention in the case of certain crimes committed by children.

(2) Notwithstanding the provisions of section 27, the [State] Government may order any such child to be detained in such place and on such conditions as it thinks fit, and while so detained the child shall be deemed to be in legal custody :

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed.

35. Where a child charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether—

Methods of dealing with children charged with offences.

(a) by discharging the offender after due admonition; or

(b) by committing the offender to the care of his parent, guardian, other adult relative, or other fit person on such parent, guardian, relative or person executing a bond to be responsible for his good behaviour; or

(c) by so discharging the offender and placing him under the supervision of a person named by the court; or

- (d) by releasing the offender on probation of good conduct ; or
- (e) by sending the offender to a certified School ;
- (f) by ordering the offender to pay a fine ; or
- (g) by ordering the parent or guardian of the offender to pay a fine ; or
- (h) where the offender is a child of fourteen years or upwards to whom the proviso to section 27 applies, by sentencing him to imprisonment ; or
- (i) by dealing with the case in any other manner in which it may legally be dealt with :

Provided that nothing in this section shall be construed as authorising the court to deal with any case in any manner in which it could not deal with the case apart from this section.

Investigation of character and circumstances.

36. For the purpose of determining the sentence or order which a court ought to pass or make under this Part against any person tried by or brought before it, the court shall after recording its finding on the facts of the case, have regard to the character of the person and the circumstances in which he is living as disclosed by the facts of the case, or, on further enquiry, by any other evidence or information.

PART V.

PROHIBITION OF PUBLICATION OF NAMES, ADDRESSES OR OTHER DETAILS CONCERNING CHILDREN INVOLVED IN OFFENCES.

Penalty for publishing names and addresses of children involved in offence.

37. (1) No report in any newspapers or news-sheet of any offence by or against a child shall disclose the name, address or school, or include any particulars calculated to lead to the identification of any child nor

shall any picture be published as being or including picture of any such child.

(2) Any person who publishes any report or picture in contravention of the provisions of this section shall be punishable with imprisonment of either description for a term not exceeding two months or with fine which may extend to two hundred rupees or with both.

PART VI.

MAINTENANCE AND TREATMENT OF PERSONS SENT TO CERTIFIED SCHOOLS OR COMMITTED TO THE CARE OF RELATIVES OR OTHER FIT PERSONS

Contribution of parent.

38. (1) The court which makes an order for the detention of a child or youthful offender in a certified school or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order to the parent or other person liable to maintain the child or youthful offender, to contribute to his maintenance, if able to do so in the prescribed manner.

(2) The court before making any order under sub-section (1) shall enquire into the circumstances of the parent or other person liable to maintain the youthful offender or child and shall record the evidence, if any, in the presence of the parent or such other person as the case may be or, when his personal attendance is dispensed with, in the presence of his pleader.

(3) Any order made under this section may from time to time be varied by the court,

(4) The persons liable to maintain a child or youthful offender shall for the purposes of sub-section (1) include in the case of illegitimacy his putative father:

Provided that where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code, the court shall not ordinarily make an order for contribution

against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code.

Boarding out of children.

39. The Managers of a certified school to which a child under the age of eight years is sent may, with the consent of the Chief Inspector, board the child out with any suitable person until the child reaches the age of ten years and thereafter for such longer period, with the consent of the Chief Inspector, as the Managers consider to be advisable in the interest of the child subject to the exercise by the Managers of such powers as to supervision, recall, and otherwise as may be prescribed; and where a child is so boarded out he shall nevertheless be deemed for the purposes of this Act to be a child detained in the school, and the provisions of this Act shall apply accordingly, subject to such necessary adaptations as may be made by the ¹[State] Government.

Placing out on licence.

40. (1) Where a child or youthful offender is detained in a certified school, the Managers of the school may, at any time with the consent of the Chief Inspector by licence, permit the child or youthful offender on the conditions prescribed in this behalf to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to educate him or train him for some useful trade or calling.

(2) Subject to the prescribed conditions the Chief Inspector may, on the recommendation of the visitors or Managers of a certified school, at any time after the expiration of six months from the commencement of the detention of a youthful offender in a certified school,

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

and if satisfied that there is a reasonable probability that the youthful offender will abstain from crime and lead a useful and industrious life, release such offender from the school and grant him a written licence in the prescribed form and on the prescribed conditions, permitting him to live under the supervision and authority of such responsible person or society approved by the Chief Inspector as may be willing to take charge of the offender.

(3) Any licence granted under sub-section (1) or (2) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(4) The Managers of the school or the Chief Inspector, as the case may be, may at any time by order in writing revoke any such licence, and order the child or youthful offender to return to the school and shall do so at the desire of the person or society with whom or under whose supervision the child or youthful offender is licensed to live. If the child or youthful offender refuses or fails to return to the school, the Managers of the school or the Chief Inspector, as the case may be, may if necessary, arrest or cause to be arrested, the child or youthful offender and take him or cause him to be taken back to the school.

(5) When a licence has been revoked or forfeited and the child or youthful offender refuses or fails to return to the school, the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender, issue a summons requiring the parent or guardian to attend at the court on such a day, as may be specified in the summons and to produce the child or youthful offender, and, if he fails to do so, without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be punished with a fine which may extend to fifty rupees.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(6) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code.

(7) The time during which a child or youthful offender is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school:

Provided that, where a child or youthful offender has failed to return to the school on the licence being revoked or forfeited, the time which elapsed after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

*Penalty for abetting escape of youthful offender or child.

41. Whoever—

(a) knowingly assists or induces, directly or indirectly, a child or youthful offender detained in or placed out on licence from a certified school to escape from the school or from any person with whom he is placed out on licence or any child or youthful offender to escape from the person to whose care he is committed under the provisions of this Act;

(b) knowingly harbours, conceals, or prevents from returning to school or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child or youthful offender, who has so escaped, or knowingly assists in so doing;

shall be punishable with imprisonment of either description for a term which may extend to two months or with fine which may extend to two hundred rupees, or with both.

Period of detention.

42: The period for which a child or youthful offender is to be detained in a certified school shall be specified in the order in pursuance of which he is sent there and shall be such period not being less than two years in the case of a youthful offender who at the date of the order is over the age of fifteen years and three

years in the case of other youthful offenders as to the court may seem proper for his teaching and training but not in any case extending beyond the time when he will, in the opinion of the court, attain the age of eighteen years.

43. (1) The ¹[State] Government may at any time order a child or youthful offender to be discharged from a certified school, either absolutely or on such conditions as the ¹[State] Government approves.

XI of
1926.

(2) The ¹[State] Government may order a youthful offender over the age of sixteen years detained in a certified school to be transferred in the interest of discipline or for other special reasons to a Borstal School established under the Punjab Borstal Act, 1926 :

Provided that the whole period of the detention of the child or youthful offender shall not be increased by the transfer.

(3) Upon the transfer of a youthful offender to a Borstal School under clause (d) of sub-section (2), the provisions of the Punjab Borstal Act, 1926, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

(4) The ¹[State] Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the ¹[State] Government approves, and may, if it thinks fit, make rules in relation to children so committed to the care of any person and to the duties of such persons with respect to such children.

44. (1) The ¹[State] Government in consultation with the Managers of any certified school may consent to the transfer to that school of any person under the age of eighteen years in respect of whom an order has been made by competent authority in any other part

Transfers between certified schools and schools of like nature in different parts of India.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

of India of the nature of an order under this part directing him to be sent to a certified school or any school of a like nature.

(2) The ¹[State] Government may direct any child or youthful offender to be transferred from any certified school to any school of a like nature in any other part of India in respect of which provision similar to that in the ²[State] of ³[Punjab] is made by the ¹[State] Government of that part under any law in force therein:

Provided that no child or youthful offender shall be transferred under this section to any other ²[State] without the consent of the Government of that other ²[State].

(3) The ¹[State] Government may direct any youthful offender detained in a certified school to be transferred from that School to a Reformatory School in any other part of India :

Provided that no child or youthful offender shall be transferred under this section to any other ²[State] without the consent of the Government of that other ²[State].

(4) The ¹[State] Government may consent to the transfer to a certified school under this Act, of a youthful offender detained in a Reformatory School in any other part of India and upon such transfer the provisions of this Act shall apply to such youthful offender.

Transfer from one certified school to another.

45. The Chief Inspector may direct any child or youthful offender to be transferred from one certified school to another:

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

²Substituted for the word "Province" by the Adaptation of Laws Order, 1950.

³Substituted for the words "East Punjab" by the Adaptation of Laws Order, 1950.

PART VII

CERTIFIED SCHOOLS AND OTHER INSTITUTIONS

46. (1) The ¹[State] Government may establish and maintain industrial schools for the reception of children and youthful offenders. Establishment and certification of schools.

(2) The ¹[State] Government may certify that any industrial school or other educational institution not established under sub-section (1) is fit for the reception of children or youthful offenders.

47. (1) For the control and management of every school established under sub-section (1) of the preceding section a Superintendent and a Committee of visitors shall be appointed by the ¹[State] Government and such Superintendent and Committee shall be deemed to be the Managers of the school for the purposes of this Act. Management of schools.

(2) Every school certified under sub-section (2) of the preceding section shall be under the management of a governing body who shall be deemed to be the Managers of the school for the purposes of this Act.

48. (1) The ¹[State] Government may appoint a Chief Inspector of certified schools and such number of Inspectors and Assistant Inspectors as it thinks advisable to assist the Chief Inspector; and every person so appointed to assist the Chief Inspector shall have such of the powers and duties of the Chief Inspector as the ¹[State] Government directs but shall act under the direction of the Chief Inspector. Inspection of schools.

(2) Every certified school shall, at least once in every six months, be inspected by the Chief Inspector of certified schools or by an Inspector or Assistant Inspector:

Provided that where any such school is for the reception of girls only and such inspection is not made by

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

the Chief Inspector, the inspection shall, where practicable, be conducted by a woman.

owers of Inspectors

49. A certified school shall be liable to inspection at all times and in all its departments by the Inspector-General of Prisons, ¹[Punjab], the Chief Inspector or Inspector or Assistant Inspector or by any member of the ²[State] Legislature or by any member of the ³[Parliament], representing the ⁴[State] of ¹[Punjab] or any part of it.

Medical inspection.

50. Any registered medical practitioner empowered in this behalf by the ²[State] Government may visit any certified school at any time with or without notice to its Managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school:

Provided that for the medical examination of a girl inmate the medical practitioner shall be a woman.

Power of State Government to withdraw certificate.

51. The ²[State] Government if dissatisfied with the conditions, rules, management or superintendence of a certified school, may, at any time by notice served on the Managers of the school, declare that the certificate of the school is withdrawn as from a date specified in the notice and the school shall cease to be a certified school from the date so specified:

Provided that the ²[State] Government may, if it thinks fit, instead of so withdrawing the certificate, by notice served on the Managers of the school, prohibit the admission of children or youthful offenders to the school for such time as may be specified in the notice or until the notice is revoked:

Provided also that before the issue of notice under this section or under the first proviso thereto a reasonable opportunity shall be given to the Managers of the

¹Substituted for the words "East Punjab" by the Adaptation of Laws Order, 1950.

²Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³Substituted for the words "Central Legislature" by the Adaptation of Laws (Third Amendment) Order, 1951.

⁴Substituted for the word "Province" by the Adaptation of Laws Order, 1950.

school to show cause why the certificates shall not be withdrawn or admission to the school shall not be prohibited as the case may be.

52. The Managers of a certified school may, on giving six months' notice in writing to the ¹[State] Government through the Chief Inspector of their intention so to do, resign the certificates of the school and accordingly at the expiration of six months from the date of the notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

53. A child or youthful offender shall not be received into a certified school in pursuance of this Act after the date of the receipt by the Managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned of the Managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid, shall, except so far as the ¹[State] Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

54. When a school ceases to be a certified school the children or youthful offenders detained therein shall be, either discharged absolutely, or on such conditions as the ¹[State] Government may impose, or transferred by order of the ¹[State] Government to some other certified school in accordance with the provisions of this Act relating to discharge or transfer, as the case may be.

55. The ¹[State] Government may establish auxiliary homes for the reception of any inmates or any classes of inmates of certified schools or may certify any other such home heretofore established or which hereafter may be established by any other agency, and the certificates may be

Resignation
certificate
Managers.

of
of

Effect of with-
drawal or resig-
nation of certifi-
cate.

Disposal of inmate
on withdrawal
or resignation of
certificate.

withdrawn or resigned in like manner as a certificate of a school and every such home shall, for such purposes as are specified by the ¹[State] Government, be treated as part of the certified school or schools to which it is attached.

Liabilities of
Managers.

56. The Managers of a certified school not established by the ¹[State] Government may decline to receive any child or youthful offender proposed to be sent to them in pursuance of this Act, but when they have once accepted any such child or youthful offender, they shall be deemed to have undertaken to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Inspection of institutions for reception of poor children.

57. The ¹[State] Government may cause any institution for the reception of poor children supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of any department of the Central or the ¹[State] Government, to be visited and inspected from time to time at all reasonable hours, by persons appointed by it for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) Any person so appointed shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes. Any person who obstructs him in the execution of his duties, shall be liable on conviction to a fine not exceeding fifty rupees.

(3) Where any such institution is carried on in accordance with the principles of any particular religious denomination, the ¹[State] Government shall, if so desired by the Managers of the institutions, appoint, where practicable, a person of that denomination to visit and inspect the institutions.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

(4) Where any such institution is for the reception of girls only, the inspection shall, where practicable be conducted by a woman.

58. (1) It shall be the duty of the person in charge of any institution for the reception of poor children to send the prescribed particulars with respect to the institution to the ¹[State] Government within the time notified by the ¹[State] Government in the official Gazette, and to send such particulars in every subsequent year before such date as may be prescribed.

Notification of particulars with respect to voluntary homes (i.e. institutions for the reception of poor children).

(2) If default is made in sending the prescribed particulars with respect to any institution for the reception of poor children in accordance with the requirements of sub-section (1), the person in charge of the institution shall, on conviction, be liable to a fine not exceeding fifty rupees and to a further fine not exceeding ten rupees in respect of each day during which the default continues after conviction.

59. (1) If the ¹[State] Government is satisfied that the management of any institution for the reception of poor children or the accommodation provided for, or the treatment of the children therein, is such as to endanger their welfare, it may serve upon the person responsible for the management of the institution such general or special directions with respect to the matters aforesaid, or any of them, as it thinks expedient, for the welfare of the children in the institution.

Control over institutions for the reception of poor children.

(2) A direction under this sub-section—

(a) may be served on the persons responsible for the management of the institution by being delivered personally to any one of them, or by being sent, by post or otherwise, in a letter addressed to them or any of them at the institution;

(b) may be varied by a subsequent direction, or withdrawn by the ¹[State] Government.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

(3) Where any such direction is not complied with, a ¹[Judicial Magistrate of the first class] having jurisdiction in the place where the institution is situate, may, on the complaint of any person appointed for the purpose by the ²[State] Government, cause a summons to be served upon the person in charge of the institution and upon such other persons as ³[such Judicial Magistrate] may direct, and after the enquiry may, if the court thinks fit, make an order for the removal of all children from the institution:

Provided that—

(a) such an order shall not be made unless the court is satisfied that the welfare of some of the children is endangered;

(b) the court may, if it thinks fit, order that the management shall be deemed to be modified to such extent as may be specified in the order and the direction shall have effect accordingly.

(4) An order for the removal of all children from an institution for the reception of poor children shall operate as an authority to any person named in the order, and to any police officer empowered in that behalf, to enter the institution and to remove the children therein to a place of safety; and where any persons are so removed, it shall be the duty of the authority to maintain them in a place of safety until they can be restored to their relatives, or until other arrangements have been made with respect to them.

(5) Where an order has been made for the removal of all children from an institution for the reception of poor children, the institution shall not be again used for the reception of children without the consent of the ²[State] Government, and any person who knowingly

¹Substituted for the words "Magistrate of the First Class" by Punjab Act No. 25 of 1964.

²Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³Substituted for the words "Such Magistrate" by Punjab Act No. 25 of 1964.

permits it to be so used shall, on conviction, be liable to a fine not exceeding fifty rupees and to a further fine not exceeding ten rupees in respect of each day during which the user continues after conviction.

PART VIII

Juvenile Courts

60. (1) The ¹[State] Government ²[in consulta- Juvenile courts.
tion with the High Court] may provide for the estab-
lishment in any area of one or more separate courts
presided preferably by women ³[Judicial Magistrates]
for the conduct of proceedings under this Act at which
the attendance of a child is required and may confer power
on such courts:

Provided that where a child is accused of an offence triable jointly with any other person not being a child, nothing in this sub-section shall affect or be deemed to affect the powers of the court, to try such other person under any other law for the time being in force.

(2) Where no such separate court has been established the court before which a child is brought shall, even if the child is tried jointly with any other person not being a child whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

61. No person shall be present at any sitting of a juvenile court, or the court where a child is brought under the provisions of this Act except—

Procedure in
Juvenile courts.

(a) members and officers of the court;

(b) parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case;

¹Substituted for the word "Provincial" by the Adaptation of Laws order, 1950

²Added by Punjab Act No 25 of 1964.

³Substituted for the word "Magistrate" by Punjab Act No. 25 of 1964.

(c) *bonafide* representatives of newspapers or news agencies;

(d) such other persons as the court may specially authorise to be present.

Restrictions on newspapers, reports of proceedings in Juvenile Courts.

62. (1) Subject as hereinafter provided, no newspaper report of any proceedings in a juvenile court shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person, concerned in those proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein, nor shall any picture be published in any newspaper as being or including a picture of any child or young person so concerned in any such proceedings as aforesaid:

Provided that the court may, in any case, if satisfied that it is in the interests of justice so to do, by order dispense with the requirements of this section to such extent as may be specified in the order.

(2) Any person who publishes any matter in contravention of this section shall on conviction be liable in respect of each offence to a fine not exceeding two hundred rupees.

PART IX

Miscellaneous

Presumption and determination of age.

63. (1) Whenever a person, whether charged with an offence or not, is brought before any criminal court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child, the court shall make due inquiry as to his age and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, and shall record a finding thereon, stating his age as nearly as may be.

(2) An order or judgement of the court shall not be invalidated by any subsequent proof that the age of such person has not been correctly stated to the court, and the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that

person and , where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, the person shall for the purposes of this Act be deemed not to be a child.

64. (1) In determining the certified school to which a child or youthful offender is to be sent under this Act, the court shall ascertain the religious denomination of the child or youthful offender and shall, if possible, select a school in which facilities are afforded for instruction in his religion. Provision as to religion.

(2) In determining on the person to whose care a child shall be committed under this Act, the court shall ascertain the religious denomination of the child and shall, if possible, elect a person of the same religious denomination or a person who gives such undertaking as seems to the court sufficient that the child will be brought up in accordance with the religion of the child and such religion shall be specified in the order.

(3) In any case where a child has been committed pursuant to any such order to the care of a person who is not of the religious denomination of the child or who has not given such undertaking as aforesaid, the court which made the order or any court of like jurisdiction shall, on the application of any person in that behalf and on being satisfied that a fit person of the religious denomination of the child or one who is prepared to give such undertaking as aforesaid is willing to undertake the care of the child, make an order committing the child to the care of such fit person.

(4) When a child is sent to a certified school in which facilities for instruction in his religion are not afforded or to a person who does not give an undertaking that the child entrusted to him will be brought up in his religion (for want of a certified school or person of the religion of the child) the court shall take an undertaking from such school or such person that the child shall not be brought up in any religion other than his own.

(5) Where a child is boarded out, or where a child or youthful offender is permitted by licence to live with any other person, the Manager of the school shall select for

this purpose, a person of the same religion as the child or youthful offender, as the case may be, if such person is available, and if no such person is available then a person who gives a satisfactory undertaking that the child or youthful offender shall be brought up in accordance with the religion of such child or youthful offender, and if no such person is available, then another person who gives an undertaking that the child shall not be brought up in any religion other than his own.

(6) When a child has been committed to the care of a person who gives an undertaking as aforesaid but the undertaking is not observed, the child shall be liable to be removed from the care of such person and dealt with according to the provisions of sub-section (3) of this section.

(7) Whenever any person interested in the religion of the child is informed of any attempt at conversion or tampering with his religion he may apply to the court for an enquiry, and the court on being so satisfied may issue an order removing the said child from the custody of such institution or person and hand over the custody to another fit person or institution.

Commitment to an approved place of a child suffering from venereal or tubercular disease.

65. When a child who has been brought before a Magistrate under any of the provisions of this Act is found to be suffering from leprosy or a venereal or a tubercular disease the Magistrate if satisfied that medical treatment is necessary and that the child will not otherwise get such treatment may commit the child to a place prescribed in this behalf by the¹ [State] Government for such period as he may think necessary and may from time to time extend the said period.

Prohibition against children being present in court during trial of other person

66. No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purposes of justice ; and any child present in court when under this section he is not to be permitted to be so shall be ordered to be removed;

Provided that this section shall not apply to messengers, clerks, and other persons required to attend at any court for purposes connected with their employment.

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

67. (1) Where in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case or their counsel or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness:

Power to clear court while child is giving evidence in certain cases.

Provided that nothing in this section shall authorise the exclusion of *bonafide* representatives of a newspaper or news agency.

(2) The power conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.

68. (1) In relation to any proceedings in any court which arise out of any offence against, or any conduct contrary to, decency or morality, the court may direct that—

Power to prohibit publication in certain matter of newspapers.

(a) no newspaper report of the proceedings shall reveal the name, address, or school, or include any particulars calculated to lead to the identification of any child concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein;

(b) no picture shall be published in any newspaper as being or including a picture of any child so concerned in the proceedings as aforesaid; except in so far (if at all) as may be permitted by the direction of the court.

(2) Any person who publishes any matter in contravention of any such direction shall on conviction be liable in respect of each offence to a fine not exceeding two hundred rupees.

69. When a child is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code, or section 565 of the Code or operate as a disqualification for office or election under any law

Removal of disqualification attaching to convictions for offences.

Control of custodian over child.

70. Any person to whose care a child is committed under the provisions of this Act, shall, while the order is inforce, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care notwithstanding that he is claimed by his parents or any other person.

Bonds taken under Act v of 1898.

71. The provisions of Chapter XLII of the Code, shall, so far as may be, apply to bonds taken under this Act.

Appeal.

72. (1) An appeal from an order made by a court under sections 8, 9, 10, 11, 12, 15, 16, 17, 18, 21, 34, 38, 40, or 64 shall lie —

(a) if passed by a Juvenile Court or by a ¹[Judicial Magistrate of the second class] while not acting as a Juvenile Court, to the ²[Chief Judicial Magistrate];

(b) if passed by a ³[Judicial Magistrate] of the first class while not acting as a Juvenile Court, to the Court of Sessions; and

(c) if passed by the Court of Sessions, to the High Court.

(2) No appeal shall lie from any order passed in any such appeal.

(3) Any order passed under the provisions of this Act and not subject to appeal under sub-section (1) may be revised by the High Court.

Power to amend orders.

73. Without prejudice to the powers of courts of appeal and revision, any custody order, supervision order

¹Substituted for the words "Magistrate of the Second or Third Class" by Punjab Act No 25 of 1964.

²Substituted for the words "District Magistrate" by Punjab Act No. 25 of 1964.

³Substituted for the word "Magistrate" by Punjab Act No. 25 and 1964.

or probation order may be amended by the Court which made the order in respect of the person named as custodian, supervisor or probation officer, the period of duration and such matters as may be prescribed.

74. (1) The ¹[State] Government may make rules for the purpose of carrying into effect the provisions of this Act.

Rules.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may be made with regard to—

- (a) the establishment and maintenance of certified schools, and auxiliary homes and the certification of schools as certified schools and of auxiliary homes;
- (b) the management of certified schools and auxiliary homes;
- (c) the appointment of visitors and their tenure of office;
- (d) the inspection of certified schools;
- (e) the maintenance, education and industrial training of the inmates of certified schools;
- (f) the conveyance of youthful offenders and children to certified schools;
- (g) the grant of permission to the inmates of certified school to absent themselves for short periods;
- (h) visits to and communications with the inmates of certified schools;
- (i) the punishment of offences committed by the inmates of certified schools;
- (j) the inspection of the institutions referred to in sections 57, 58 and 59;

¹Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

- (k) the manner of detention of children under arrest or remanded or committed for trial;
- (l) the procedure to be adopted in any case or inquiry under this Act before any court other than a Juvenile Court;
- (m) the persons who may be authorised to act under section 8 or 20;
- (n) the manner in which a child may be committed to the care of a relative or other fit person, and the duties of such persons and the supervision of such children;
- (o) the conditions subject to which a youthful offender may be released on licence under sub-section (1) of section 40 and the form and conditions of such licence;
- (p) the manner in which a youthful offender may be released on probation;
- (q) matters incidental to the appointment, resignation and removal of probation officers and the remuneration and expenses payable to them;
- (r) the duties of probation officers;
- (s) the conditions on which societies may be recognised by the ¹[State] Government for providing probation officers;
- (t) the contribution by parents and other persons liable to maintain youthful offenders and children;
- (u) the boarding out of children and the licensing and supervision of children and youthful offenders and the submission of reports regarding them;
- (v) the procedure to be adopted in Juvenile Courts: and

¹Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.

(w) the time within which appeals under section 72 shall be filed.

(3) The power to make rules under this Act shall be subject to the condition of previous publication and to the further condition that the rules so made—

(a) shall be laid before the¹[State Legislative Assembly] for one month previous to its next session;

(b) shall be liable to be modified or annulled by a resolution of the¹[State Legislative Assembly] at the said next session.

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of
1850

75. The Apprentices Act, 1850, is hereby repealed.

Repeals.

¹Substituted for the words "Provincial Legislature" by the Adaptation of Laws (Third Amendment) Order, 1951.